

**FILED**

NOV 02 2006

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND

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9 Attorneys for Plaintiff

10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 OAKLAND DIVISION

13 UNITED STATES OF AMERICA,

14 Plaintiff,

15 v.

16 DARRELL LEE BROWN, JR.,  
17 a/k/a "D.B.,"

18 Defendant.

No. CR 06-00541 DLJ

STIPULATION AND ~~PROPOSED~~  
ORDER VACATING MOTIONS  
HEARING AND RESCHEDULING FOR  
FURTHER STATUS CONFERENCE AND  
EXCLUDING TIME

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20 Plaintiff, by and through its attorney of record, and defendant, by and through his attorney  
21 of record, hereby stipulate and ask the Court to find as follows:

22 1. On August 3, 2006, a federal grand jury indicted defendant for possession of  
23 cocaine base in violation of Title 21, United States Code, Section 841(a), using and carrying a  
24 firearm during and in relation to a drug trafficking crime in violation of Title 18, United States  
25 Code, Section 924(c), and felon in possession of a firearm in violation of Title 18, United States  
26 Code, Section 922(g)(1).

27 2. Defendant made his initial appearance in federal court on August 8, 2006. On that  
28 day, the Honorable Wayne D. Brazil, United States Magistrate Judge, and was subsequently

STIPULATION AND ORDER RESCHEDULING  
HEARING; EXCLUDING TIME

1 detained.

2 3. On August 18, 2006, the parties appeared before this Court for an initial status  
3 conference. The government had previously produced discovery and the parties subsequently set  
4 a motions filing date and a trial setting before this Court at 11:00 a.m. on November 3, 2006.  
5 Defendant's counsel elected not to file any pre-trial motions based on the information known to  
6 his counsel at that time because she needs additional time to review the discovery with her client  
7 and decide what course of action to take with respect to the filing of any motions and trial  
8 defense.

9 4. As a result, defendant's counsel requires the additional time from November 3,  
10 2006, to November 17, 2006, to analyze and investigate the discovery the government has  
11 produced, determine whether to file any pre-trial motions, and to develop a trial strategy in light  
12 of the evidence. The parties believe that failure to grant the above-requested continuance would  
13 deny defendant's counsel and defendant the reasonable time necessary for effective preparation  
14 taking into account the exercise of due diligence and that the ends of justice served by continuing  
15 the case as requested outweigh the interest of the public and defendant in a trial within the date  
16 prescribed by the Speedy Trial Act.

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5. For the reasons explained above, the defendant requests, and the parties hereby stipulate, to vacate the currently scheduled November 3, 2006, motions hearing and schedule a motions hearing for 9:00 a.m. on November 17, 2006.

IT IS SO STIPULATED.

DATE: November 2, 2006

Respectfully submitted,

KEVIN V. RYAN  
United States Attorney

/s/<sup>1</sup>  
GARTH HIRE  
Assistant United States Attorney  
  
Attorneys for Plaintiff  
UNITED STATES OF AMERICA

DATE:

/s/  
CLAIRE M. LEARY, ESQ.

Counsel for Darrell Lee Brown, Jr.

**[PROPOSED] ORDER**

FOR GOOD CAUSE SHOWN, THE COURT HEREBY ADOPTS THE FINDINGS OF FACT AND CONCLUSIONS OF LAW STIPULATED TO BY THE PARTIES. THEREFORE, IT IS SO FOUND AND ORDERED THAT:

1. The currently scheduled November 3, 2006, motions hearing is vacated. A motions hearing is now scheduled for 9:00 a.m. on November 17, 2006.

2. The time period from November 3, 2006, to November 17, 2006, is deemed excludable pursuant to 18 U.S.C. § 3161(h)(8)(A) because it results from a continuance granted by the Court at the defendant's request and on the basis of the Court's finding that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial. Finally, the time period from November 3, 2006, to November 17, 2006, is

<sup>1</sup> I hereby attest that I have on file all the holograph signatures for any signatures indicated by a "conformed" signature (/s/) within this e-filed document.

1 deemed excludable pursuant to 18 U.S.C. § 3161(h)(8)(B)(iv) because failure to grant the  
2 continuance would unreasonably deny defense counsel the time necessary for effective  
3 preparation for trial, taking into account due diligence. The Court finds that nothing in this  
4 stipulation and order shall preclude a finding that other provisions of the Speedy Trial Act dictate  
5 that additional time periods are excludable from the period within which trial must commence.

6  
7 DATED: 11-2-06

  
HONORABLE D. LOWELL JENSEN  
SENIOR UNITED STATES DISTRICT JUDGE